

Local Government Employee-Management Relations Board E-Newsletter

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June 2014

Members of the Board

Philip E. Larson, Chairman

Sandra Masters, Vice-Chairman

Brent C. Eckersley, Esq., Board Member

Staff

Bruce K. Snyder, Commissioner

Yvonne V. Martinez, Board Secretary

On the Horizon

Invoices for the annual assessment, payable by all local governments, will be issued on June 20th. Payment is due by July 31st. The annual assessment funds the agency for the coming year as the EMRB receives no general fund monies. The assessment this year is unchanged at \$6.75 per employee.

The next meeting of the Board will be held July 10th in Las Vegas. The agenda, which will be finalized on July 2nd, may at that time be viewed on our website at www.emrb.state.nv.us. Tuesday, July 1st will be the deadline for the submission of any documents for that meeting. There will be no hearing for that meeting.

The August meeting is scheduled for August 19th through 21st and will be held in Las Vegas. The hearing for that meeting will be eighteen consolidated cases, A1-045847 - A1-045864, Deborah Boland et al. v. SEIU, Local 1107 & NSEU. These cases involve physicians at UMC who allege that the union breached its duty of fair representation to them.

In the Queue...

Once initial pleadings, including pre-hearing statements, have been filed with the EMRB and after any motions to dismiss or defer have been decided, then a case typically goes into a queue, waiting for the Board to decide whether to grant a hearing in the case or dismiss the complaint. Below is a description of the current queue:

In September, the Board is scheduled to be back up north. At that time it will hear A1-046098, Washoe County Principals Assn. v. Washoe County School District in Reno (September 9 & 10) and A1-046105, Douglas County Support Staff Assn. v. Douglas County School District in Carson City (September 11).

In October, the Board will be back in Las Vegas to hear A1-046091, Jarod Barto et al v. City of Las Vegas.

In November, the Board will meet in Las Vegas and hear two consolidated cases, A1-046054 & A1-046080, involving the North Las Vegas Police Supervisors Association and the City of North Las Vegas.

Inside This Issue

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In the Queue... (cont.)

The following cases are waiting for the Board to deliberate and decide on the status of the case, including, but not limited to, dismissal of the case or the granting of a hearing on the complaint. Please note that the order listed below is not necessarily the order in which the cases will be heard.

In Las Vegas:

- A1-046102, North Las Vegas Police Supv. v. City of North Las Vegas
- A1-046106, Michael Turner v. Clark County School District
- A1-046108, Las Vegas City Employees Assoc. & Val Sharp v. City of Las Vegas
- A1-046109, Nicholas Eason v. Clark County
- A1-046113, ESEA & POA of CCSD v. Clark County School District
- A1-046116, David O'Leary v. Las Vegas Metropolitan Police Department

In Northern Nevada:

- A1-046068, Elko County Employees Association v. Elko County



Did you know

167 local governments are registered with the EMRB and thus pay an annual assessment? This includes 16 counties, 19 cities, 17 school districts, 32 charter schools and 83 special districts, ranging from fire protection districts, general improvement districts, hospital districts, airport authorities, library districts, convention and visitors authorities, and more.



New and Improved EMRB website coming soon...

Under Construction

Good news! The next edition of the *Nevada Law Library on CD* will have all the agency's orders from 2001 to the present on their disk for the first time ever! These orders will be searchable. We thank the Legislative Counsel Bureau for working with us on this project. The next release date is not yet known but we will notify you as soon as we hear what the release date will be.

In the meantime we are working hard to get all the remaining orders translated into the proper format by the end of this year so that all our orders from 1969 to the present will be on the *Nevada Law Library on CD*.

We are also working on updating the index to all our decisions for those who do not want to purchase the CD. The index, which was previously printed annually and issued to subscribers for a fee, will instead be available upon request and sent via e-mail at no cost! We hope to have this ready for distribution by this fall. Finally, once our new website is up and running we will be loading all our orders on the website, although they will not be searchable.

We trust this strategy of providing multiple avenues will be beneficial for your research.

Recent Decisions

*Please note that these summaries are provided for informational purposes only and are not intended to substitute for the opinions of the Board. These summaries should not be cited to or regarded as legal authority. The EMRB will provide copies of the decisions upon request.

A1-046111, Justin Simo v. City of Henderson and Henderson Police Officers Association (Item No. 796)

Justin Simo was terminated from his position as a police officer with the City of Henderson following a motor vehicle accident while driving a SWAT vehicle. His union elected not to file a grievance and the City refused to process a grievance he attempted to file on his own. Thereafter he hired an attorney, who filed an action in District Court against both the City of Henderson and his union for various causes of action, including breach of contract. The District Court ultimately dismissed the case for failure to exhaust administrative remedies.

Just before the dismissal of the District Court case Mr. Simo filed a complaint with the EMRB, alleging the same causes of action against the City and his union. Both Respondents filed motions to dismiss, which the Board decided on June 10th.

The Board held that the complaint was timely, although filed more than six months from the date of unequivocal notice of final adverse action, due to tolling the time period in which the similar case had wrongly been filed in District Court, citing Bybee v. White Pine County School District, Item No. 724C, and the provisions of NRS 11.500.

The Board also overlooked various timeliness of service and technical pleading deficiencies, noting that there was no indication of prejudice to any of the Respondents despite these defects.

The Board granted the City's motion to dismiss on the grounds that the complaint did not raise a dispute within the Board's authority, noting that the Board's jurisdiction is to only hear complaints arising out of NRS 288 and the complaint raised no such allegations but rather focused on other causes of action such as breach of contract. The Board denied the union's motion to dismiss.

Practice Tips

Every fall each employee organization (i.e., union) must submit an annual report to the EMRB plus a copy of all their collective bargaining agreements currently in effect. Because of this the EMRB has more than 200 current collective bargaining agreements on file.

As soon as early next year we hope to have all these collective bargaining agreements on our soon-to-be-released new website. Until then we encourage local governments and employee organizations that either are in negotiations or will soon be in negotiations to visit our office in Las Vegas. We would be glad to allow you to review the collective bargaining agreements on file. Reviewing the agreements might answer any number of questions you might have – from the going rate for tool allowance to clauses on the payout of sick leave. Moreover, your current CBA might have language that has led to several disputes in interpretation. A review of other agreements might provide less ambiguous language that could lead to better harmony between management and labor. If interested, just call us at the telephone number below.

"About the EMRB"

The EMRB, a Division of the Department of Business and Industry, is the Nevada state agency involved in the process of collective bargaining and labor relations for local government employers, local government employees and employee associations or unions. Created by Nevada Revised Statute 288, the agency provides resolution of unfair labor practices; resolution of issues related to mandatory bargaining subjects; resolution of disputes related to recognition and determinations regarding appropriate bargaining units. In summary, the law governs concerted activities on the part of local government as it relates to the collective bargaining process. The goal of the EMRB is to foster the collective bargaining process, to provide support to those involved in said process, and to settle disputes as they arise in a neutral and timely manner.